



RAJASTHAN HIGH COURT

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

सत्यमेव जयते

S.B. Criminal Revision Petition No. 1920/2025

Victim

----Petitioner

Versus

The State of Rajasthan, Through The PP

----Respondent



For Petitioner(s) : Mr. Dharmendra Choudhary
For Respondent(s) : Mr. Rajesh Choudhary, GA-cum-AAG
with Mr. Amit Punia, Addl.GA/PP

JUSTICE ANOOP KUMAR DHAND
Order

28/10/2025

Reportable

1. The crime of rape can be regarded as the highest form of torture inflicted upon womanhood. It not only inflicts physical torture upon the body of the woman, but also adversely affects her mental, psychological and emotional well-being. Therefore, rape is treated as the most heinous crime against the very basic human right conferred upon the woman i.e., 'the right of life and dignity'. It is not merely a sexual offence, but an act of aggression aimed at degrading and humiliating the woman. Such cases are required to be handled by the Courts with utmost sensitivity and high responsibility.
2. Crime of rape committed with the minor victim is a dehumanizing one and an affront to human dignity. Hence, compensation should be awarded as a form of solace to the victim.



3. By way of filing this revision petition, a challenge has been led to the impugned order dated 11.08.2025 passed by the Special Judge, POCSO Cases and Commission for Protection of Child Rights Act, 2005, No.3, Jaipur Metropolitan-First, by which the application submitted by the petitioner for grant of compensation under the Rajasthan Victim Compensation Scheme, 2011 (for short, 'the Scheme of 2011') and under Rule 9 of the Protection of Children from Sexual Offences Rules, 2020 (for short, 'the Rules of 2020') has been rejected.

4. Learned counsel for the petitioner submits that the petitioner-victim was sexually assaulted by the accused "PV" for which he was prosecuted for the offences punishable under Section 363 and 376 IPC, and Section 3/4 of the Protection of Children from Sexual Offences Act (for short, 'POCSO Act'). Counsel submits that the accused faced trial for the above stated offences and finally he was found guilty and sentenced to undergo 20 years of rigorous imprisonment for the above offences. Counsel submits that during pendency of the trial against the accused, an application, seeking interim compensation, was submitted, but the same was not decided and remained pending until the passing of the judgment against the accused. Counsel submits that thereafter, an application seeking compensation was submitted before the Special Judge, POCSO Cases, but the same was rejected without entering into the merits of the case but on a technical ground that the petitioner did not furnish the details of her source of income for making payment of her school fee, etc. and no document in this regard was produced. Counsel submits that this cannot be the



sole ground for rejection of the application seeking grant of compensation under the Rajasthan Victim Compensation Scheme and under Rule 9 of the Rules of 2020. Counsel submits that as per the provisions contained under the Rules of 2020 and the Scheme of 2011, a rape victim is entitled to receive a suitable amount of compensation; and for deciding the same, it is required to be seen whether the victim has been raped or sexually assaulted. Hence, under these circumstances, the order impugned passed by the Court below is liable to be set-aside and the application submitted by the petitioner is liable to be allowed.

5. Per contra, learned Public Prosecutor has opposed the prayer, but he is not in a position to controvert the submissions made by counsel for the petitioner.

6. Heard and considered the submissions made at the Bar and perused the material available on the record.

7. Perusal of the record indicates that the petitioner was sexually assaulted by the accused, for which FIR No.434/2023 was registered with the Police Station, Sanganer, Jaipur City (East) on 18.07.2023, and the charge-sheet was submitted against the accused for the offences punishable under Section 363 and 376 of IPC and Section 3/4 of the POCSO Act. After conclusion of the trial, he was convicted for the above stated offences and was sentenced to undergo 20 years of rigorous imprisonment.

8. It appears that an application seeking interim compensation was submitted before the Court below by the petitioner during pendency of the trial against the accused, but





the said application was not decided and remained undecided till conclusion of the trial and thereafter, an application was submitted by the petitioner seeking grant of compensation in terms of Rule 9 of the Rules of 2020 and under the Victim Compensation Scheme, but the said application was rejected on the technical ground that the petitioner is studying in school and she has not disclosed her source of income for making the payment of school fee, etc.

9. In the considered opinion of this Court, the reason aforesaid cannot be the sole ground for rejection of the application submitted by the petitioner, seeking compensation, in terms of Rule 9 of the Rules of 2020 and the Scheme of 2011.

10. The need for compensating rape survivors was recognized by the Supreme Court of Bangladesh in the case of **Al Amin Vs. The State** reported in **(1999) 19 BLD (HCD) 307**, where it was held that "Mere punishment of the offenders of sexual assault cannot give much solace to the victim and her family members. Adequate monetary compensation may redress the wrong and damage caused to the victims and the family members. The compensation has to be awarded independently having no nexus with the provision of imposition of fine embodied in the Penal Code. A permanent mode of compensation has to be worked out. The Government may consider the matters under observations...."

11. Modern approach of victimology acknowledges that a crime victim has a right to be adequately compensated, rehabilitated and repaired. From a humanitarian point of view, there is no scope to dispute the fact that the victims of crime, especially the



victims of rape, must have access to mechanisms such as 'reparation' or 'compensation' that can help reduce their continuing sufferings and trauma.



12. Previously, compensation to the victim was recognized under Section 357 of the Code of Criminal Procedure (for short 'Cr.P.C.'), wherein if the sentence involved levy of fine, the Court could award compensation to the victim out of the fine amount, as determined by the Court. Subsequently, on the basis of the 154th Law Commission Report, and by an amendment dated 31.12.2009, Section 357A was added to the Cr.P.C., providing for compensation even in the case of acquittal of the accused. Under Section 357A of Cr.P.C., all the States, in coordination with the Central Government were required to formulate a Victim Compensation Scheme for the State, and the discretion was left upon the State and District Legal Services Authorities to decide the quantum of compensation.

13. In exercise of the powers conferred by the Section 357A of Cr.P.C., the State Government framed a scheme for providing funds for compensation to be given to the victims or their dependents, who have suffered loss or injury, as a result of the crime and who require rehabilitation. The Scheme is known as "The Rajasthan Victim Compensation Scheme, 2011" (for short "the Scheme of 2011"). Rule 5 of the Scheme of 2011 deals with the procedure for grant of compensation and the following Schedule has been annexed with this Scheme, which deals with



particulars of loss of injury and maximum limit of compensation.

The Schedule is reproduced as under:-

SCHEDULE
[See Rule 5(8)]

S.No.	Particulars of loss of injury	Maximum Limit of Compensation
1	2	3
1.	Loss of Life.	Rs.2,00,000/-
2.	Loss of any limb or part of body resulting 80% or above Handicap.	Rs.1,00,000/-
3.	Loss of any limb or part of body resulting 40% & below 80% Handicap.	Rs.50,000/-
4.	Rape of minor.	Rs.3,00,000/-
5.	Rape.	Rs.2,00,000/-
6.	Rehabilitation.	Rs.1,00,000/-
7.	Loss of any limb or part of body resulting 40% Handicap.	Rs.25,000/-
8.	Loss of any injury causing sever mental agony to women and child victims in case like Human Trafficking.	Rs.25,000/-
9.	Simple loss or injury to child victim.	Rs.20,000/-
10.	Permanent disfiguration of the head or fact by acid	Rs.2,00,000/-

14. Therefore, the State introduced the Rajasthan Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2023 (for short 'Scheme of 2023') and this scheme applies to the women victims/survivors of sexual assault and other crimes and their dependents. This Scheme was introduced on 28.06.2023 and the following Schedule has been inserted which deals with the minimum and upper limit of compensation and the same is reproduced as under:

SCHEDULE
Applicable to Women Victim of Crimes

S.No.	Particulars of loss of injury	Minimum Limit of Compensation	Upper Limit of Compensation
1.	Loss of Life.	Rs.5 Lakh	Rs.10 Lakh



2.	Gang Rape	Rs.5 Lakh	Rs.10 Lakh
3.	Rape	Rs.4 Lakh	Rs.7 Lakh
4.	Unnatural Sexual Assault	Rs.4 Lakh	Rs.7 Lakh
5.	Loss of Any Limb or part of body resulting in 80% Permanent Disability of above	Rs.2 Lakh	Rs.5 Lakh
6.	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs.2 Lakh	Rs.4 Lakh
7.	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs.1 Lakh	Rs.3 Lakh
8.	Loss of any limb or part of body resulting in below 20% permanent disability	Rs.1 Lakh	Rs.2 Lakh
9.	Grievous physical injury or any mental injury requiring rehabilitation	Rs.1 Lakh	Rs.2 Lakh
10.	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs.2 Lakh	Rs.3 Lakh
11.	In case of pregnancy on account of rape.	Rs.3 Lakh	Rs.4 Lakh
12.	Victims of Burning,-		
	(a) In case of disfigurement of case	Rs.7 Lakh	Rs.8 Lakh
	(b) in case of more than 50%	Rs.5 Lakh	Rs.8 Lakh
	(c) In case of injury less than 50%	Rs.3 Lakh	Rs.7 Lakh
	(d) In case of less than 20%	Rs.2 Lakh	Rs.3 Lakh
13.	Victims of Acid Attack,-		
	(a) In case of disfigurement of face.	Rs.7 Lakh	Rs.8 Lakh
	(b) In case of injury more than 50%	Rs.5 Lakh	Rs.8 Lakh
	(c) In case of injury less than 50%	Rs.3 Lakh	Rs.5 Lakh
	(d) In case of injury less than 20%	Rs.3 Lakh	Rs.4 Lakh

15. After enactment of the Scheme of 2011 and 2023, the responsibility of its implementation has been shouldered on the Rajasthan State Legal Services Authority (for short 'RSLSA') and the District Legal Services Authority (for short 'DLSA'). In order to maintain uniformity in implementation of the Scheme of 2011, the RSLSA issued general guidelines on 25.07.2012.

16. Clause 5 of both the Schemes deal with the procedure for making application before RSLSA/DLSA. Clause 8 of the Scheme



of 2023 deals with the factors to be considered while awarding compensation and Clause 9 deals with the procedure for grant of compensation. Clause 12 of the Scheme of 2023 deals with procedure for grant of interim relief to the victim and Clause 16 deals with limitation for submitting formal application and an appropriate format has also been attached as Form-I i.e., Application which is required to be submitted before the authority. The formal application is reproduced as under:

**“FORM-I
APPLICATION FOR THE AWARD OF
COMPENSATION UNDER RAJASTHAN
COMPENSATION SCHEME FOR WOMEN
VICTIMS/SURVIVORS OR SEXUAL
ASSAULT/OTHER CRIMES, 2023
(FOR INTERIM/FINAL RELIEF)**

1.	Name of the Applicant Victim(s) of her Dependent(s)	
2.	Age of the Victim(s) of her Dependent(s)	
3.	(a) Father’s Name (b) Mother’s Name (c) Spouse’s Name	
4.	Address of the Victim(s) other/their Dependent(s)	
5.	Date and time of the Incident	
6.	Whether FIR has been lodged?	
7.	Whether medical examination has been done? If yes, enclose Medical Report/Death Certificate/P.M. Report.	
8.	Status of trial, if pending. If over, enclose copy of judgment and order of sentence.	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.	
10.	Give details of financial expenditure/loss incurred	
11.	Have you instituted any civil suit/claim against the perpetrator of offence. If yes give details. Signature of the Victim/Dependent.	

Signature of Applicant”



17. In addition to the aforesaid, even a provision for payment of compensation has been introduced by the Legislature in the Protection of children From Sexual Offences Rules, 2020 (for short, 'Rules of 2020') and Rule 9 of the aforesaid Rules, which deals with the complete procedure for grant of compensation, is reproduced as under:



"Rule 9. Compensation.—

(1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.

(2) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.

(3) Where the Special Court, under sub-section (8) of Section 33 of the Act read with sub-sections (2) and (3) of Section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974) makes a direction for the award of compensation to the victim, it shall take into account all relevant factors relating to the loss or injury caused to the victim, including the following:—

- (i) type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;
- (ii) the expenditure incurred or likely to be incurred on child's medical treatment for physical or mental health or on both;
- (iii) loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily



injury, medical treatment, investigation and trial of the offence, or any other reason;

(v) the relationship of the child to the offender, if any;

(vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;

(vii) whether the child became pregnant as a result of the offence;

(viii) whether the child contracted a Sexually Transmitted Disease (STD) as a result of the offence;

(ix) whether the child contracted Human Immunodeficiency Virus (HIV) as a result of the offence;

(x) any disability suffered by the child as a result of the offence;

(xi) financial condition of the child against whom the offence has been committed so as to determine such child's need for rehabilitation;

(xii) any other factor that the Special Court may consider to be relevant.

(4) The compensation awarded by the Special Court is to be paid by the State Government from the Victims Compensation Fund or other scheme or fund established by it for the purposes of compensating and rehabilitating victims under Section 357-A of the Code of Criminal Procedure, 1973 or any other law for the time being in force, or, where such fund or scheme does not exist, by the State Government.

(5) The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.

(6) Nothing in these rules shall prevent a child or child's parent or guardian or any other person in whom the child has trust and confidence from submitting an application for seeking relief under any other rules or scheme of the Central Government or State Government."

18. Prior to the amendment in Section 357A of Cr.P.C. and prior to the 154th report of Law Commission and enactment of the Scheme of 2011, the Union of India constituted the "Malimath Committee", which was headed by Justice V.S.Malimath, former Chief Justice of the Karnataka and Kerala





High Courts. The task assigned to this Committee was to examine the fundamental principles of criminal law to restore public confidence in the criminal justice system.

19. The Malimath Committee made recommendations to the compensation for victims. In paragraphs 6.8.7 and 6.8.8, the Committee has made the following recommendations:-



"6.8.7 Sympathizing with the plight of victims under Criminal Justice administration and taking advantage of the obligation to do complete justice under the Indian Constitution in defense of human rights, the Supreme Court and High Courts In India have a late evolved the practice of awarding compensatory remedies not only in terms of money but also in terms of other appropriate reliefs and remedies. Medical justice for the Bhagalpur blinded victims, rehabilitative justice to the communal violence victims and compensatory justice to the Union Carbide victims are examples of this liberal package of reliefs and remedies forged by the apex Court. The recent decisions in Nilahati Behera v. State of Orissa [(1993) 2 SCC 746] and in Chairman, Railway Board v. Chandrima Das are illustrative of his new trend of using Constitutional jurisdiction to do justice to victims of crime. Substantial monetary compensations have been awarded against the instrumentalities of the State for failure to protect the rights of the victim.

6.8.8 These decisions have clearly acknowledged the need for compensating victims of violent crimes irrespective of the fact whether offenders are apprehended or punished. The principle Invoked Is the obligation of the State to protect basic rights and to deliver justice to victims of crimes fairly and quickly. It is time that the Criminal Justice System takes not of these principles of Indian Constitution and legislate on the subject suitably."

20. Thereafter, the Hon'ble Apex Court in the case of **Chairman, Railway Board Vs. Chandrima Das** reported in **(2000) 2 SCC 465** upheld the judgment passed by the Calcutta High Court and a compensation of Rs.10,00,000/- was granted



to a Bangladeshi Foreign Tourist with whom gang rape was committed at Howrah Railway Station.



21. Hence, it is clear that the idea of grant of compensation to the victims was not a new concept and it was recognized by various Courts and that is why the Courts have granted compensation to several rape victims in exercise of its inherent powers. Even in the case of **Hari Singh Vs. Sukhbir Singh & Ors.** reported in **(1988) 4 SCC 551**, the Hon'ble Apex Court felt that the principles of granting compensation to victims of crime need to be reviewed and expanded to cover all cases. It was also realized that the compensation should not be limited only to fines or penalties but the State should also grant adequate amount of compensation to the victims of crime from its funds, even in the cases of acquittal of the accused or where the offender is not traceable or identifiable. It is in this background that the amended provisions of Section 357A of Cr.P.C. came into picture on the basis of the 154th report submitted by the Law Commission of India.

22. Thereafter, the new provision for grant of compensation to the victim was brought into picture by way of introducing Section 357A in Cr.P.C. in the year 2009.

23. The Kerala High Court in the case of **District Collector Vs. District Legal Service Authority & Ors.** reported in **2020 SCC OnLine Ker 8292** has held in para 24 to 31 as under:-

"24. Section 357A Cr.P.C., was brought in with effect from 31.12.2009 through the Code of Criminal Procedure Amendment Act, 2008, (Act 5 of 2009).



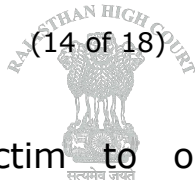
The amended provisions do not mention anywhere that the amendment is prospective or even retrospective in character.

25. There is no dispute that procedural statutes are generally retrospective in operation, while statutes that are substantive are prospective in their application unless by express stipulation or by necessary intendment, the provisions provide for otherwise. In the quest to ascertain whether Section 357A(4) Cr.P.C applies to offences that occurred prior to 31.12.2009, it is necessary to identify whether the provision is substantive or procedural.

26. Substantive law is that part of the law, which creates, defines, and regulate the rights, duties and powers of parties, while procedural law, as the name itself indicates, relates to that part of the law, which prescribes procedures and methods for enforcing rights and duties and for obtaining redress. In simpler terms, when substantive law creates, defines or regulate rights, the procedural law creates the method for enforcing or having redressal for the rights so created. In the celebrated work by Salmond on 'Jurisprudence' (12th Edition, South Asian Edition, 2016), it is stated as follows: "*the law of procedure may be defined as that branch of the law which governs the process of litigation. It is the law of actions - using the term action in a wide sense to include all legal proceedings civil or criminal. All the residue is substantive law, and relates, not to the process of litigation, but to its purposes and subject matter. Substantive law is concerned with the ends which the administration of justice seeks; procedural law deals with the means and instruments by which those ends are to be attained. The latter regulate the conduct and relations of courts and litigants in respect of the litigation itself; the former determines the conduct and relations in respect of the matters litigated.*" In Ramanatha Aiyer's Advanced Law Lexicon 4th Edition (2013), substantive law is stated to be that part of a law that creates, defines, and regulates the rights, duties, and powers of parties. The Supreme Court has approved the aforesaid propositions on substantive law, as can be seen from the decision in Executive Engineer, Dhenkanal Minor Irrigation Division, Orissa and Others v. N.C.Badharaj [(2001) 2 SCC 721] wherein it was held that "*substantive law is that part of law, which creates, defines and regulates rights in contrast to what is called adjective or remedial law which provides a method of enforcing rights*".

27. A reading of Sections 357A(1)(4)&(5) Cr.P.C., will make it explicit that the said sub-clauses create a





right upon the victim to obtain an award of compensation on satisfying the conditions stipulated therein. There was no statutory provision akin to Section 357A(4) Cr.P.C., earlier. There was neither any remedy available to a victim to claim compensation against the State nor was there any obligation for the State to pay compensation towards a victim, especially when the accused had not been identified or traced and the trial had not taken place. This court is mindful of the occasions when the High Courts and Supreme Court have ordered payment of compensation to victims. As rightly pointed out by Adv. Vinod, the learned Government Pleader, those were all instances in which the facts warranted such a grant of compensation since the crimes were either on account of State action or inaction. Section 357A(1)(4)&(5) Cr.P.C., has thus created a right upon a victim in cases where the offender is not traced or identified and the trial has not taken place, to obtain compensation, from the State Government for the rehabilitation of the victim. It has created and defined rights for a victim, and a duty upon the State Government to pay compensation. Thus Section 357A(1)(4)&(5) Cr.P.C., is a substantive law and not procedural law.

28. As a substantive law, the aforesaid statutory provision will have only prospective application. However, in the case of Section 357A(1)(4)&(5) Cr.P.C., there is a difference. Rehabilitation of the victim is the scope, purport and import of Section 357A(4) Cr.P.C., when read along with Section 357A(1) Cr.P.C. This is more explicit when understood in the background of the recommendation of the 154th report of the Law Commission of India. Rehabilitation of the victim was a remedial measure. It remedied the weakness in the then existing provisions for compensating the crime victims, especially to those victims, whose perpetrators had not been traced. The provision is remedial. Remedial statutes or provisions are also known as welfare, beneficent or social justice oriented legislation.

29. While interpreting a provision brought in as a remedial measure, that too, as a means of welfare for the victims of crimes, in which the perpetrators or offenders have not been identified and in which trial has not taken place, the Court must always be wary and vigilant of not defeating the welfare intended by the legislature. In remedial provisions, as well as in welfare legislation, the words of the statute must be construed in such a manner that it provides the most complete remedy which the phraseology permits. The Court must, always, in such circumstances, interpret



the words in such a manner, that the relief contemplated by the provision, is secured and not denied to the class intended to be benefited.

30. While interpreting Section 357A(4) Cr.P.C., this Court cannot be oblivious of the agony stricken face of the victim and the trauma and travails such victims have undergone, especially when their offenders have not even been identified or traced out or a trial conducted. The agonizing face of the victims looms large upon this Court while considering the question raised for decision.

31. With the aforesaid principles hovering over Section 357A(1)(4)&(5) Cr.P.C., the provision ought to be interpreted in such a manner that it benefits victims. If the said benefit could be conferred without violating the principles of law, then courts must adopt that approach. A substantive law that is remedial, can reckon a past event for applying the law prospectively. Such an approach does not make the substantive law retrospective in its operation. On the other hand, it only caters to the intention of the legislature."

24. The Calcutta High Court in the case of **Achiya Bibi Vs. State of West Bengal & Ors.** reported in **2019 SCC OnLine Cal 1950** has held in paragraphs 19, 23 and 24 as under:-

"19. Section 357A has come into statute book in order to compensate and rehabilitate the victim. It is recognition of right of a victim to receive compensation and rehabilitation notwithstanding the result of a criminal proceeding. Right to receive rehabilitation and compensation is not dependent upon or must await a recommendation made by a Court under Section 357A(2) or an order on conclusion of trial under Section 357A(3). Rehabilitation and compensation cannot be denied to a victim on the ground that, the criminal proceeding is yet to attain finality or that the Court in seisin of the proceeding is yet to make a recommendation.

20. to 22.xx xx xx xx xx xx xx xx

23. *Piyali Dutta* (supra) was considered in *Serina Mondal alias Piyada* (supra). *Serina Mondal alias Piyada* (supra) has considered a similar decision of the DLSA as impugned herein by which, DLSA



rejected the claim of the victim. The Court is informed that, the writ petitioner herein is similarly situated and circumstanced as that of the writ petitioner in *Serina Mondal alias Piyada* (supra). It has held as follows:—

"The object and purpose of the Scheme of 2017 which itself replaced an earlier scheme of the year 2012 is inter alia that a victim of a serious crime specially a woman needs urgent and immediate attention and both physical and mental rehabilitation. Such rehabilitation from the nature of the scheme and Section 357A is not dependent on the pace on which either the investigation is conducted or the trial is carried on. If this be the object and purpose of the Scheme and Section 357A read as a whole, I cannot countenance the findings of the State Legal Services Authority in the impugned order that both the requirements i. e. accused not being traced or identified as well as the factum of trial not having commenced, need be satisfied.

Compensation is awarded under the scheme as formulated pursuant to Section 357A (supra) as the fundamental rights of the victim under Article 21 have been in fact violated. Denial of compensation to such victim would continue such violation and perpetrate gross inhumanity on the victim in question. This cannot be the object of Section 357A and the 2017 Scheme referred to hereinabove. I therefore hold that both the requirements the accused not being identified or traced as also that the trial should not have commenced, need not be satisfied for entitlement of compensation under the 2017 scheme.

There is yet another way to address the issue. If the accused have not been identified a trial cannot commence anyway. The Legislature could not have imposed an occurrence leading to the same result twice over, as a condition precedent. Any multiple preconditions must be independent occurrences. Two similar events cannot form two different conditions."

24. In the facts of the present case therefore, the impugned decision of SLSA and DLSA cannot be sustained. SLSA is directed to disburse compensation to the petitioner under the Scheme of 2017 forthwith."





25. The Hon'ble Supreme Court in the case of **Mohd. Haroon & Ors. Vs. Union of India & Ors. [Writ Petition (Criminal) No.155/2013]** has held that no compensation can be adequate but since the State has failed in protecting such serious violation of fundamental rights, the State is duty bound to provide compensation, which may help in the victim's rehabilitation. The Hon'ble Supreme Court also noted that "the obligation of the State does not extinguish only on the payment of compensation but rehabilitation and restoration of the victims is also of paramount importance. Considering the mental trauma that the victim suffers due to commission of such heinous crime, rehabilitation becomes a must in each and every case.

26. In view of the discussions made herein above, the petition is partly allowed. The impugned order stands quashed and set-aside. The matter is remitted to the Court below for deciding the application, submitted by the petitioner, afresh in terms of Rule 9 of the Rules of 2020 and in terms of the Scheme of 2011.

27. Needless to observe that a fresh order shall be passed by the Court below within a period of six weeks from the date of receipt of the certified copy of this order.

28. In the alternative, the petitioner would be at liberty to submit an application, in terms of the procedure/process contained under the Scheme of 2011 before the concerned Secretary, DLSA, in the requisite format along with the copy of the judgment of conviction of the accused. In case such an





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application is submitted, the Secretary, DLSA is expected to decide the same expeditiously in accordance with law.

29. Before parting with this order, it is made clear that the petitioner would not submit two different applications before the Special Judge, POCSO and the Secretary, DLSA simultaneously and she is free to submit only one application before either of the authorities and she is not supposed to approach both the platforms for redressal of her grievances.



(ANOOP KUMAR DHAND),J

KUD/29